

PATENT COOPERATION TREATY

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents
United States Patent and Trademark
Office
Box PCT
Washington, D.C. 20231
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 13 March 2000 (13.03.00)	Applicant's or agent's file reference 545P79179
International application No. PCT/GB99/02406	Priority date (day/month/year) 24 July 1998 (24.07.98)
International filing date (day/month/year) 23 July 1999 (23.07.99)	
Applicant RUBIO SUSAN, Victor et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:
23 February 2000 (23.02.00)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Olivia RANAIVOJAONA Telephone No.: (41-22) 338.83.38
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PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 545P79179	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/GB 99/ 02406	International filing date (day/month/year) 23/07/1999	(Earliest) Priority Date (day/month/year) 24/07/1998
Applicant INSTITUTO TECNICO AGRONOMICO PROVINCIAL, et. al.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the language, the International search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



the International search was carried out on the basis of a translation of the International application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing:



contained in the International application in written form.



filed together with the International application in computer readable form.



furnished subsequently to this Authority in written form.



furnished subsequently to this Authority in computer readable form.



the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.



the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☐ Certain claims were found unsearchable (See Box I).

3. ☐ Unity of invention is lacking (see Box II).

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

PROTECTION OF PLANTS USING RHIZOCTONIA

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.



as suggested by the applicant.



because the applicant failed to suggest a figure.



because this figure better characterizes the invention.



None of the figures.

INTERNATIONAL SEARCH REPORT

onal Application No

T/GB 99/02406

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A01N63/04 C12N1/14 C07H21/04 //(C12N1/14,C12R1:645)

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A01N C12N C07H

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the International search (name of data base and, where practical, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	M. BOYSEN, M. BORJA, C. DEL MORAL, O. SALAZAR & V. RUBIO: "Identification at strain level of Rhizoctonia solani AG4 isolates by direct sequence of asymmetric PCR products of the ITS regions." CURR. GENET., vol. 29, 1996, pages 174-181, XP002124045 cited in the application see: page 175, right-hand col., 1st. par.: Strains 521 (ATCC 64643) and Rh2815 (CECT 2815); page 177, right-hand col., 1st par.; Fig. 4; page 180, left-hand col., final two par. — —/—	1-10

☒ Further documents are listed in the continuation of box C.☐ Patent family members are listed in annex.

* Special categories of cited documents:

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

26 November 1999

Date of mailing of the international search report

11/01/2000

Name and mailing address of the ISA

European Patent Office, P.B. 6818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Klaver, J

INTERNATIONAL SEARCH REPORT

oral Application No

/GB 99/02406

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		Relevant to claim No.
Category *	Citation of document, with indication, where appropriate, of the relevant passages	
X	S. KUNINAGA, T. NATSUAKI, T. TAKEUCHI & R. YOKOSAWA: "Sequence variation of the rDNA ITS regions within and between anastomosis groups in <i>Rhizoctonia solani</i> ." CURR. GENET., vol. 32, 1997, pages 237-243, XP002124046 cited in the application see: 'Discussion'	1-4
X	J. KEIJER, P. M. HOUTERMAN, A. M. DULLEMANS & M. G. KORSMAN: "Heterogeneity in electrophoretic karyotype within and between anastomosis groups of <i>Rhizoctonia solani</i> ." MYCOL. RES., vol. 100, no. 7, 1996, pages 789-797, XP002124047 cited in the application see: page 789, right-hand col., 1st full par.; page 796, left-hand col., 2nd par. - right-hand col., last par.	1-4
X	Z. L. LIU, L. L. DOMIER & J. B. SINCLAIR: "Polymorphism of genes coding for nuclear 18S rRNA indicates genetic distinctiveness of AG 10 from other groups in the <i>Rhizoctonia solani</i> species complex." APPL. ENVIRONM. MICROBIOL., vol. 61, no. 7, 1995, pages 2659-2664, XP002124048 see: par. bridging pages 2659 - 2660; page 2662, right-hand col., l. 4 - 8; 'Discussion'.	1-4
X	Z. L. LIU & J. B. SINCLAIR: "Genetic diversity of <i>Rhizoctonia solani</i> AG 2." PHYTOPATHOLOGY, vol. 82, no. 7, 1992, pages 778-787, XP002124049 page 786, left-hand column, line 1 -right-hand column, line 3	1-4
A	B. SNEH: "Use of non-pathogenic or hypovirulent fungal strains to protect plants against closely related fungal pathogens." BIOTECH. ADV., vol. 16, no. 1, 1998, pages 1-32, XP004099135 cited in the application page 12 -page 19	1-10

INTERNATIONAL SEARCH REPORT

ional Application No

PCT/GB 99/02406

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	<p>L. J. HERR: "Biological control of Rhizoctonia solani by binucleate Rhizoctonia spp. and hypovirulent R. solani agents." CROP PROT., vol. 14, no. 3, 1995, pages 179-186, XP002124050 cited in the application the whole document</p>	1-10

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference
(if desired) (12 characters maximum) 545P79179

Box No. I TITLE OF INVENTION

PROTECTION OF PLANTS

Box No. II APPLICANT

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Instituto Tecnico Agronomico Provincial, S.A.
02080 Albacete
Spain

☐ This person is also inventor.

Telephone No.

Facsimile No.

Teleprinter No.

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant
for the purposes of:

☐ all designated
States

☐ all designated States except
the United States of America

☐ the United States
of America only

☒ the States indicated in
the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Ruffles, Graham Keith
57-60 Lincoln's Inn Fields
London WC2A 3LS
United Kingdom

This person is:

☒ applicant only

☐ applicant and inventor

☐ inventor only (If this check-box
is marked, do not fill in below.)

State (that is, country) of nationality:
GB

State (that is, country) of residence:
GB

This person is applicant
for the purposes of:

☐ all designated
States

☐ all designated States except
the United States of America

☐ the United States
of America only

☒ the States indicated in
the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf
of the applicant(s) before the competent International Authorities as:

☒ agent

☐ common representative

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

Ruffles, Graham Keith
Marks & Clerk
57-60 Lincoln's Inn Fields
London WC2A 3LS
United Kingdom

Telephone No.

0171-400-3000

Facsimile No.

0171-404-4910

Teleprinter No.

25311 EMANDC G

☐ Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

See Notes to the request form

If none of the following sub-boxes is used, this sheet should not be included in the request.

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Rubio Susan, Victor
Cuesta San Vicente 20
28008 Madrid
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

- ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Salazar Torres, Oscar
Valmojado 233, 1A
28047 Madrid
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

- ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Julian Esquivias, Maria
Paseo de la Chopera, 2B
28100 Alcobendas
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

- ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Gonzalez Garcia, Vicente
Colonla Occidente 7
28022 Madrid
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

- ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on another continuation sheet.

Continuation of Box No. III FURTHER APPLICANTS AND/OR (FURTHER) INVENTORS

If none of the following sub-boxes is used, this sheet should not be included in the request.

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Gomez-Acebo Gullon, Eduardo
Sanchidrian 18
28224 Pozuelo
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

☐ all designated States

☐ all designated States except the United States of America

☒ the United States of America only

☐ the States indicated in the Supplemental Box

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Munoz Gomez, Ramona
Medico 10
02200 Casas Ibanez
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

☐ all designated States

☐ all designated States except the United States of America

☒ the United States of America only

☐ the States indicated in the Supplemental Box

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

Lopez Corcoles, Horacio
Historia 31
02006 Albacete
Spain

This person is:

- ☐ applicant only
☒ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

This person is applicant for the purposes of:

☐ all designated States

☐ all designated States except the United States of America

☒ the United States of America only

☐ the States indicated in the Supplemental Box

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)

This person is:

- ☐ applicant only
☐ applicant and inventor
☐ inventor only (If this check-box is marked, do not fill in below.)

State (that is, country) of nationality:

State (that is, country) of residence:

This person is applicant for the purposes of:

☐ all designated States

☐ all designated States except the United States of America

☐ the United States of America only

☐ the States indicated in the Supplemental Box

☐ Further applicants and/or (further) inventors are indicated on another continuation sheet.

B. V. DESIGNATION OF STATES

The following designations are hereby made under Rule 4.9(a) (mark the applicable check-boxes; at least one must be marked):

Regional Patent

- ☒ AP ARIPO Patent: GH Ghana, GM Gambia, KE Kenya, LS Lesotho, MW Malawi, SD Sudan, SZ Swaziland, UG Uganda, ZW Zimbabwe, and any other State which is a Contracting State of the Harare Protocol and of the PCT
- ☒ EA Eurasian Patent: AM Armenia, AZ Azerbaijan, BY Belarus, KG Kyrgyzstan, KZ Kazakhstan, MD Republic of Moldova, RU Russian Federation, TJ Tajikistan, TM Turkmenistan, and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT
- ☒ EP European Patent: AT Austria, BE Belgium, CH and LI Switzerland and Liechtenstein, CY Cyprus, DE Germany, DK Denmark, ES Spain, FI Finland, FR France, GB United Kingdom, GR Greece, IE Ireland, IT Italy, LU Luxembourg, MC Monaco, NL Netherlands, PT Portugal, SE Sweden, and any other State which is a Contracting State of the European Patent Convention and of the PCT
- ☒ OA OAPI Patent: BF Burkina Faso, BJ Benin, CF Central African Republic, CG Congo, CI Côte d'Ivoire, CM Cameroon, GA Gabon, GN Guinea, GW Guinea-Bissau, ML Mali, MR Mauritania, NE Niger, SN Senegal, TD Chad, TG Togo, and any other State which is a member State of OAPI and a Contracting State of the PCT (if other kind of protection or treatment desired, specify on dotted line)

National Patent (if other kind of protection or treatment desired, specify on dotted line):

- | | |
|--|--|
| <input checked="" type="checkbox"/> AL Albania | <input checked="" type="checkbox"/> LS Lesotho |
| <input checked="" type="checkbox"/> AM Armenia | <input checked="" type="checkbox"/> LT Lithuania |
| <input checked="" type="checkbox"/> AT Austria | <input checked="" type="checkbox"/> LU Luxembourg |
| <input checked="" type="checkbox"/> AU Australia | <input checked="" type="checkbox"/> LV Latvia |
| <input checked="" type="checkbox"/> AZ Azerbaijan | <input checked="" type="checkbox"/> MD Republic of Moldova |
| <input checked="" type="checkbox"/> BA Bosnia and Herzegovina | <input checked="" type="checkbox"/> MG Madagascar |
| <input checked="" type="checkbox"/> BB Barbados | <input checked="" type="checkbox"/> MK The former Yugoslav Republic of Macedonia |
| <input checked="" type="checkbox"/> BG Bulgaria | <input checked="" type="checkbox"/> MN Mongolia |
| <input checked="" type="checkbox"/> BR Brazil | <input checked="" type="checkbox"/> MW Malawi |
| <input checked="" type="checkbox"/> BY Belarus | <input checked="" type="checkbox"/> MX Mexico |
| <input checked="" type="checkbox"/> CA Canada | <input checked="" type="checkbox"/> NO Norway |
| <input checked="" type="checkbox"/> CH and LI Switzerland and Liechtenstein | <input checked="" type="checkbox"/> NZ New Zealand |
| <input checked="" type="checkbox"/> CN China | <input checked="" type="checkbox"/> PL Poland |
| <input checked="" type="checkbox"/> CU Cuba | <input checked="" type="checkbox"/> PT Portugal |
| <input checked="" type="checkbox"/> CZ Czech Republic | <input checked="" type="checkbox"/> RO Romania |
| <input checked="" type="checkbox"/> DE Germany | <input checked="" type="checkbox"/> RU Russian Federation |
| <input checked="" type="checkbox"/> DK Denmark | <input checked="" type="checkbox"/> SD Sudan |
| <input checked="" type="checkbox"/> EE Estonia | <input checked="" type="checkbox"/> SE Sweden |
| <input checked="" type="checkbox"/> ES Spain | <input checked="" type="checkbox"/> SG Singapore |
| <input checked="" type="checkbox"/> FI Finland | <input checked="" type="checkbox"/> SI Slovenia |
| <input checked="" type="checkbox"/> GB United Kingdom | <input checked="" type="checkbox"/> SK Slovakia |
| <input checked="" type="checkbox"/> GD Grenada | <input checked="" type="checkbox"/> SL Sierra Leone |
| <input checked="" type="checkbox"/> GE Georgia | <input checked="" type="checkbox"/> TJ Tajikistan |
| <input checked="" type="checkbox"/> GH Ghana | <input checked="" type="checkbox"/> TM Turkmenistan |
| <input checked="" type="checkbox"/> GM Gambia | <input checked="" type="checkbox"/> TR Turkey |
| <input checked="" type="checkbox"/> HR Croatia | <input checked="" type="checkbox"/> TT Trinidad and Tobago |
| <input checked="" type="checkbox"/> HU Hungary | <input checked="" type="checkbox"/> UA Ukraine |
| <input checked="" type="checkbox"/> ID Indonesia | <input checked="" type="checkbox"/> UG Uganda |
| <input checked="" type="checkbox"/> IL Israel | <input checked="" type="checkbox"/> US United States of America |
| <input checked="" type="checkbox"/> IN India | <input checked="" type="checkbox"/> UZ Uzbekistan |
| <input checked="" type="checkbox"/> IS Iceland | <input checked="" type="checkbox"/> VN Viet Nam |
| <input checked="" type="checkbox"/> JP Japan | <input checked="" type="checkbox"/> YU Yugoslavia |
| <input checked="" type="checkbox"/> KE Kenya | <input checked="" type="checkbox"/> ZW Zimbabwe |
| <input checked="" type="checkbox"/> KG Kyrgyzstan | |
| <input checked="" type="checkbox"/> KP Democratic People's Republic of Korea | |
| <input checked="" type="checkbox"/> KR Republic of Korea | |
| <input checked="" type="checkbox"/> KZ Kazakhstan | |
| <input checked="" type="checkbox"/> LC Saint Lucia | |
| <input checked="" type="checkbox"/> LK Sri Lanka | |
| <input checked="" type="checkbox"/> LR Liberia | |

Check-boxes reserved for designating States (for the purposes of a national patent) which have become party to the PCT after issuance of this sheet:

- ☒ AE United Arab Emirates
- ☒ ZA South Africa
- ☐

Precautionary Designation Statement: In addition to the designations made above, the applicant also makes under Rule 4.9(b) all other designations which would be permitted under the PCT except any designation(s) indicated in the Supplemental Box as being excluded from the scope of this statement. The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit. (Confirmation of a designation consists of the filing of a notice specifying that designation and the payment of the designation and confirmation fees. Confirmation must reach the receiving Office within the 15-month time limit.)

Supplemental Box

If the Supplemental Box is not used, this sheet should not be included in the request.

1. If, in any of the Boxes, the space is insufficient to furnish all the information: in such case, write "Continuation of Box No. ..." [indicate the number of the Box] and furnish the information in the same manner as required according to the captions of the Box in which the space was insufficient, in particular:

- (i) if more than two persons are involved as applicants and/or inventors and no "continuation sheet" is available: in such case, write "Continuation of Box No. III" and indicate for each additional person the same type of information as required in Box No. III. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below;
 - (ii) if, in Box No. II or in any of the sub-boxes of Box No. III, the indication "the States indicated in the Supplemental Box" is checked: in such case, write "Continuation of Box No. II" or "Continuation of Boxes No. II and No. III" (as the case may be), indicate the name of the applicant(s) involved and, next to (each) such name, the State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is applicant;
 - (iii) if, in Box No. II or in any of the sub-boxes of Box No. III, the inventor or the inventor/applicant is not inventor for the purposes of all designated States or for the purposes of the United States of America: in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and No. III" (as the case may be), indicate the name of the inventor(s) and, next to (each) such name, the State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is inventor;
 - (iv) if, in addition to the agent(s) indicated in Box No. IV, there are further agents: in such case, write "Continuation of Box No. IV" and indicate for each further agent the same type of information as required in Box No. IV;
 - (v) if, in Box No. V, the name of any State (or OAPI) is accompanied by the indication "patent of addition," or "certificate of addition," or if, in Box No. V, the name of the United States of America is accompanied by an indication "continuation" or "continuation-in-part": in such case, write "Continuation of Box No. V" and the name of each State involved (or OAPI), and after the name of each such State (or OAPI), the number of the parent title or parent application and the date of grant of the parent title or filing of the parent application;
 - (vi) if, in Box No. VI, there are more than three earlier applications whose priority is claimed: in such case, write "Continuation of Box No. VI" and indicate for each additional earlier application the same type of information as required in Box No. VI;
 - (vii) if, in Box No. VI, the earlier application is an ARIPO application: in such case, write "Continuation of Box No. VI", specify the number of the item corresponding to that earlier application and indicate at least one country party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed.
2. If, with regard to the precautionary designation statement contained in Box No. V, the applicant wishes to exclude any State(s) from the scope of that statement: in such case, write "Designation(s) excluded from precautionary designation statement" and indicate the name or two-letter code of each State so excluded.
3. If the applicant claims, in respect of any designated Office, the benefits of provisions of the national law concerning non-prejudicial disclosures or exceptions to lack of novelty: in such case, write "Statement concerning non-prejudicial disclosures or exceptions to lack of novelty" and furnish that statement below.

Instituto Tecnico Agronomico Provincial, S.A. is applicant for (JP) Japan, (AU) Australia, (CA) Canada, (FI) Finland, (BR) Brazil, (MX) Mexico, (RU) Russian Federation, (NZ) New Zealand, (EP) All States, (AT) Austria, (CH and LI) Switzerland and Liechtenstein, (DE) Germany, (ES) Spain, (GB) United Kingdom, (LU) Luxembourg, (PT) Portugal, (SE) Sweden, (DK) Denmark.

Ruffles, Graham Keith is an applicant for (AP) ARIPO, (EA) Eurasian Patent, (OA) OAPI, National Patents in: (AL) Albania, (AM) Armenia, (AZ) Azerbaijan, (BA) Bosnia and Herzegovina, (BB) Barbados, (BG) Bulgaria, (BY) Belarus, (CN) China, (CU) Cuba, (CZ) Czech Republic, (EE) Estonia, (GE) Georgia, (GH) Ghana, (HU) Hungary, (IL) Israel, (IS) Iceland, (KE) Kenya, (KG) Kyrgyzstan, (KP) Democratic Peoples Republic of Korea, (KZ) Kazakhstan, (LC) Saint Lucia, (LK) Sri Lanka, (LR) Liberia, (LS) Lesotho, (LT) Lithuania, (LV) Latvia, (MD) Republic of Moldova, (MG) Madagascar, (MK) The Former Yugoslav Republic of Macedonia, (MN) Mongolia, (MW) Malawi, (NO) Norway, (PL) Poland, (RO) Romania, (SD) Sudan, (SG) Singapore, (SI) Slovenia, (SK) Slovakia, (TJ) Tajikistan, (TM) Turkmenistan, (TR) Turkey, (TT) Trinidad and Tobago, (UG) Uganda, (UZ) Uzbekistan, (VN) Vietnam, (YU) Yugoslavia, (ID) Indonesia, (SL) Sierra Leone, (ZW) Zimbabwe, (GM) Gambia, (GW) Guinea-Bissau, (GD) Grenada, (HR) Croatia, (IN) India, (AE) United Arab Emirates, (ZA) South Africa, (KR) Republic of Korea, (UA) Ukraine

See Notes to the request form

Box No. VI **PRIORITY CLAIM** ☐ Further priority claims are indicated in the Supplemental Box.

Filing date of earlier application (day/month/year)	Number of earlier application	Where earlier application is:		
		national application: country	regional application: regional Office	international application: receiving Office
item (1) 24 July 1998	9816265.4	GB		
item (2)				
item (3)				

☒ The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) (only if the earlier application was filed with the Office which for the purposes of the present International application is the receiving Office) identified above as item(s): (1)

* Where the earlier application is an ARIPO application, it is mandatory to indicate in the Supplemental Box at least one country party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed (Rule 4.10(b)(ii)). See Supplemental Box.

Box No. VII **INTERNATIONAL SEARCHING AUTHORITY**

Choice of International Searching Authority (ISA) (If two or more International Searching Authorities are competent to carry out the international search, indicate the Authority chosen: the two-letter code may be used):

Request to use results of earlier search; reference to that search (if an earlier search has been carried out by or requested from the International Searching Authority):

Date (day/month/year) Number Country (or regional Office)

ISA /

Box No. VIII **CHECK LIST: LANGUAGE OF FILING**

This international application contains the following number of sheets:

request : 6
description (excluding sequence listing part) : 49
claims : 2
abstract : 1
drawings : 64
sequence listing part of description : 5

Total number of sheets : 127

This international application is accompanied by the item(s) marked below:

- ☒ fee calculation sheet
- ☒ separate signed power of attorney
- ☐ copy of general power of attorney; reference number, if any:
- ☐ statement explaining lack of signature
- ☐ priority document(s) identified in Box No. VI as item(s):
- ☐ translation of international application into (language):
- ☐ separate indications concerning deposited microorganism or other biological material
- ☐ nucleotide and/or amino acid sequence listing in computer readable form
- ☒ other (specify): Form 29/77

Figure of the drawings which should accompany the abstract:

Fig No. 2

Language of filing of the international application: ENGLISH

Box No. IX **SIGNATURE OF APPLICANT OR AGENT**

Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the request).

Lyndon-Stanford, Edward Willoughby Brooke on behalf

Edward Lyndon-Stanford
of Ruffles, Graham Keith

For receiving Office use only		2. Drawings:
1. Date of actual receipt of the purported international application:		<input type="checkbox"/> received:
3. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:		<input type="checkbox"/> not received:
4. Date of timely receipt of the required corrections under PCT Article 1(2):		
5. International Searching Authority (if two or more are competent): ISA /	6. <input type="checkbox"/> Transmittal of search copy delayed until search fee is paid.	

Date of receipt of the record copy by the International Bureau:

For International Bureau use only

See Notes to the request form

The demand must be filed directly with the competent International Preliminary Examining Authority or, if two or more Authorities are competent, the one chosen by the applicant. The full name or two-letter code of that Authority may be indicated by the applicant on the line below:
IPEA/ EP 23 February 2000

PCT

CHAPTER II

DEMAND

under Article 31 of the Patent Cooperation Treaty:
 The undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty and hereby elects all eligible States (except where otherwise indicated).

For International Preliminary Examining Authority use only		Date of receipt of DEMAND
Identification of IPEA		Applicant's or agent's file reference WPP79179
Box No. I IDENTIFICATION OF THE INTERNATIONAL APPLICATION		
International application No. PCT/GB99/02406	International filing date (day/month/year) 23 July 1999 (23.07.1999)	(Earliest) Priority date (day/month/year) 24 July 1998 (24.07.1998)
Title of invention PROTECTION OF PLANTS USING RHIZOCTONIA		
Box No. II APPLICANT(S)		
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.) Instituto Tecnico Agronomico Provincial, S.A. Albacete 02080 Spain		Telephone No.: Facsimile No.: Teleprinter No.:
State (that is, country) of nationality: ES	State (that is, country) of residence: ES	
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.) Ruffles, Graham Keith 57-60 Lincoln's Inn Fields London WC2A 3LS United Kingdom		
State (that is, country) of nationality: GB	State (that is, country) of residence: GB	
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.) Rubio Susan, Victor Cuesta San Vicente 20 Madrid 28008 Spain		
State (that is, country) of nationality: ES	State (that is, country) of residence: ES	
<input checked="" type="checkbox"/> Further applicants are indicated on a continuation sheet.		

Continuation of Box No. II APPLICANT(S)

If none of the following sub-boxes is used, this sheet should not be included in the demand.

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

Salazar Torres, Oscar
Valmorado 233, 1A
Madrid 28047
Spain

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

Julian Esquivias, Maria
Paseo de la Chopera, 2B
Alcobendas 28100
Spain

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

Gonzalez Garcia, Vicente
Colonia Occidente 7
Madrid 28022
Spain

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

Gomez-Acebo Gullon, Eduardo
Sanchidrian 18
Pozuelo 28224
Spain

State (that is, country) of nationality:
ES

State (that is, country) of residence:
ES

☒ Further applicants are indicated on another continuation sheet.

See Notes to the demand form

Sheet No. 3

International application No.
PCT/GB99/02406

Continuation of Box No. II APPLICANT(S)

If none of the following sub-boxes is used, this sheet should not be included in the demand.

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

Munoz Gomez, Ramona
Medico 10
Casas Ibanez 02200
SpainState (that is, country) of nationality:
ESState (that is, country) of residence:
ES

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

Lopez Corcoles, Horacio
Historia 31
Albacete 02006
SpainState (that is, country) of nationality:
ESState (that is, country) of residence:
ES

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

State (that is, country) of nationality:

State (that is, country) of residence:

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

State (that is, country) of nationality:

State (that is, country) of residence:

☐ Further applicants are indicated on another continuation sheet.

Box No. III AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The following person is ☒ agent ☐ common representativeand ☒ has been appointed earlier and represents the applicant(s) also for international preliminary examination.☐ is hereby appointed and any earlier appointment of (an) agent(s)/common representative is hereby revoked.☐ is hereby appointed, specifically for the procedure before the International Preliminary Examining Authority, in addition to the agent(s)/common representative appointed earlier.Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*Ruffles, Graham Keith
Marks & Clerk
57-60 Lincoln's Inn Fields
London WC2A 3LS
United Kingdom

Telephone No.:

0171-400-3000

Facsimile No.:

0171-404-4910

Teleprinter No.:

25311 EMANDC G

☐ Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

Box No. IV BASIS FOR INTERNATIONAL PRELIMINARY EXAMINATION

Statement concerning amendments:*

1. The applicant wishes the international preliminary examination to start on the basis of:

☒ the international application as originally filed
the description ☐ as originally filed☐ as amended under Article 34the claims ☐ as originally filed☐ as amended under Article 19 (together with any accompanying statement)☐ as amended under Article 34the drawings ☐ as originally filed☐ as amended under Article 342. ☐ The applicant wishes any amendment to the claims under Article 19 to be considered as reversed.3. ☐ The applicant wishes the start of the international preliminary examination to be postponed until the expiration of 20 months from the priority date unless the International Preliminary Examining Authority receives a copy of any amendments made under Article 19 or a notice from the applicant that he does not wish to make such amendments (Rule 69.1(d)). (This check-box may be marked only where the time limit under Article 19 has not yet expired.)

* Where no check-box is marked, international preliminary examination will start on the basis of the international application as originally filed or, where a copy of amendments to the claims under Article 19 and/or amendments of the international application under Article 34 are received by the International Preliminary Examining Authority before it has begun to draw up a written opinion or the international preliminary examination report, as so amended.

Language for the purposes of international preliminary examination: English☒ which is the language in which the international application was filed.☐ which is the language of a translation furnished for the purposes of international search.☐ which is the language of publication of the international application.☐ which is the language of the translation (to be) furnished for the purposes of international preliminary examination.

Box No. V ELECTION OF STATES

The applicant hereby elects all eligible States (that is, all States which have been designated and which are bound by Chapter II of the PCT)

excluding the following States which the applicant wishes not to elect:

See Notes to the demand form

Box No. VI CHECK LIST

The demand is accompanied by the following elements, in the language referred to in Box No. IV, for the purposes of international preliminary examination:

- | | | |
|--|---|--------|
| 1. translation of international application | : | sheets |
| 2. amendments under Article 34 | : | sheets |
| 3. copy (or, where required, translation) of amendments under Article 19 | : | sheets |
| 4. copy (or, where required, translation) of statement under Article 19 | : | sheets |
| 5. letter | : | sheets |
| 6. other (specify) | : | sheets |

For International Preliminary Examining Authority use only

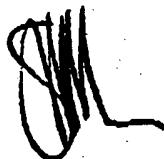
received	not received
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

The demand is also accompanied by the item(s) marked below:

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> fee calculation sheet | 4. <input type="checkbox"/> statement explaining lack of signature |
| 2. <input type="checkbox"/> separate signed power of attorney | 5. <input type="checkbox"/> nucleotide and or amino acid sequence listing in computer readable form |
| 3. <input type="checkbox"/> copy of general power of attorney; reference number, if any: | 6. <input type="checkbox"/> other (specify): |

Box No. VII SIGNATURE OF APPLICANT, AGENT OR COMMON REPRESENTATIVE

Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the demand).



Ruffles, Graham Keith

For International Preliminary Examining Authority use only

1. Date of actual receipt of DEMAND:

2. Adjusted date of receipt of demand due to CORRECTIONS under Rule 60.1(b):

3. ☐ The date of receipt of the demand is AFTER the expiration of 19 months from the priority date and item 4 or 5, below, does not apply.

☐ The applicant has been informed accordingly.

4. ☐ The date of receipt of the demand is WITHIN the period of 19 months from the priority date as extended by virtue of Rule 80.5.

5. ☐ Although the date of receipt of the demand is after the expiration of 19 months from the priority date, the delay in arrival is EXCUSED pursuant to Rule 82.

For International Bureau use only

Demand received from IPEA on:

See Notes to the demand form

From
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

RUFFLES, Graham Keith
MARKS & CLERK
57-60 Lincoln's Inn Fields
London WC2A 3LS
GRANDE BRETAGNE

RECEIVED
23 OCT 2000
FORMALITIES DEPT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 71.1)

Date of mailing
(day/month/year) 19.10.2000

Applicant's or agent's file reference
WPP79179

IMPORTANT NOTIFICATION

International application No.
PCT/GB99/02406

International filing date (day/month/year)
23/07/1999

Priority date (day/month/year)
24/07/1998

Applicant
INSTITUTO TECNICO AGRONOMICO PROVINCIAL, et. al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523658 epmu d
Fax: +49 89 2399 - 4465

Authorized officer

Gallego, A

Tel. +49 89 2399-6102



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WPP79179		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB99/02406	International filing date (day/month/year) 23/07/1999	Priority date (day/month/year) 24/07/1998	
International Patent Classification (IPC) or national classification and IPC A01N63/04			
Applicant ISTITUTO TECNICO AGRONOMICO PROVINCIAL, et. al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 5 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 23/02/2000	Date of completion of this report 18.10.2000
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523658 epmu d Fax: +49 89 2399 - 4465	Authorized officer Klaever, J Telephone No. +49 89 2399 6601 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB99/02406

I. Basis of the report

1. This report has been drawn on the basis of *(substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments (Rules 70.16 and 70.17).)*
Description, pages:

1-50 as originally filed

Claims, No.:

1-10 as originally filed

Drawings, sheets:

1-64 as originally filed

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(p)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB99/02406

☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims 1 - 6, 9, 10
	No:	Claims 7, 8
Inventive step (IS)	Yes:	Claims 5 - 10 (insofar as novel)
	No:	Claims 1 - 4
Industrial applicability (IA)	Yes:	Claims 1 - 10
	No:	Claims

2. Citations and explanations
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB99/02406

1). The documents cited in the International Search Report have been numbered as follows:

- D1 = Boysen et al. (1996)
- D2 = Kuninaga et al. (1997)
- D3 = Keijer et al. (1996)
- D4 = Liu et al. (1995)
- D5 = Liu & Sinclair (1992)
- D6 = Sneh (1998)
- D7 = Herr (1995)

2). D1 discloses hypovirulent *Rhizoctonia* strains CECT 2815 (= strain Rh2815) and ATCC 64643 (= strain 521). These strains also possess an ITS1 sequence including fragments of at least 10 bases as defined by present claim 7 (see: D1: Figure 4; Application: Figures 1 (A) - 1(I)).

D3 and D5 also disclose (pathogenic) *Rhizoctonia* strains having ITS1 sequences including at least 10 nucleic acid bases of SEQ ID Nos 15 - 28. At least primer ITS1 (having 19 bases) as defined in D3 (page 791, left-hand col., line 9/10) and in D5 (Table 3) is present in almost every sequence mentioned in present claim 7.

The strains and concentrate of claims 7 and 8 hence are not novel within the meaning of Art. 33 (3) PCT. It is pointed out, that in intended purpose does not normally render a composition novel with respect to identical compositions of the prior art.

3). The cited documents do not disclose a method for protecting plants by using binuclear *Rhizoctonia* strains that have been selected by molecular detection of the ITS ribosomal (DNA) sequence, such as the strains of claim 7.

A primer as defined by claim 10 has not been disclosed in the cited documents either.

The subject-matter of claims 1 - 6, 9 and 10 hence is novel within the meaning of Art. 33 (2) PCT.

4). The subject-matter of claims 1 - 4 is not considered to be based on an inventive step for the following reasons:

It can be seen from D1 - D5 that it is known in the art to distinguish (pathogenic) *Rhizoctonia* strains on the basis of their ITS ribosomal DNA sequences.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB99/02406

It can be derived from several documents, that it is considered plausible in the art to use this identification system to distinguish between pathogenic and nonvirulent strains as well: D1: page 177, right-hand col., 3rd par., and page 180, left-hand col., final two paragraphs; D2: page 242, left-hand col., 2nd par., and right-hand col., 2nd par.; D3: page 789, right-hand col., lines 9/10 from below and page 796, right-hand col., line 18 - 51; D4: page 2659, right-hand col., 1st par. and page 2664, left-hand col., 2nd par.

The use of non- or hypovirulent Rhizoctonia strains for the protection of plants against phytopathogenic fungi is self-evident as can be seen from D6 and D7. The subject-matter of claims 1 - 4 hence constitutes an obvious application of a known determination or classification method. Said claims hence do not fulfil the criteria set forth in Art. 33 (3) PCT.

The finding of particular ITS1-rDNA-sequences which are unique for non-virulent strains is considered an inventive contribution to the prior art. Claims 5 -10 (insofar as novel and clearly distinguished from the prior art) hence are considered to be based on an inventive step (Art. 33 (3) PCT).

5). Claim 7 defines binucleate strains having an ITS1-sequence of at least 10 nucleic acid bases, whereas the description (page 5, 4th full par.) also mentions strains having 5 bases as possible embodiments of the invention. Such a discrepancy between claims and description contravenes Art. 6 PCT.

FORMULARIO INTERNACIONAL

DESTINATARIO:

Dr. Alonso Gutierrez Moreno
Instituto Tecnico Agronomico
Provincial SA.
Carretera Madrid sn. Apartado 451
02080 ALBACETE

RECIBO EN CASO DE DEPOSITO INICIAL
expedido en virtud de la Regla 7.1 por la
AUTORIDAD INTERNACIONAL DE DEPOSITO
identificada en la parte inferior de esta página

NOMBRE Y DIRECCION
DEL DEPOSITANTE

I. IDENTIFICACION DEL MICROORGANISMO	
Referencia de identificación asignada por el DEPOSITANTE: <u>Rhizotecnia (binucleada) Eab-F5</u>	Número de orden atribuido por la AUTORIDAD INTERNACIONAL DE DEPOSITO: <u>Rhizotecnia sp. 20320</u>
II. DESCRIPCION CIENTIFICA Y/O DESIGNACION TAXONOMICA PROPUESTA	
El microorganismo identificado en I venia acompañado: <input checked="" type="checkbox"/> de una descripción científica <input checked="" type="checkbox"/> de una designación taxonómica propuesta (Márquese lo que corresponda)	
III. RECEPCION Y ACEPTACION	
Esta autoridad internacional de depósito acepta el microorganismo identificado en I, que ha recibido el <u>30 Junio 1989</u> (fecha del depósito inicial)	
IV. RECEPCION DE UNA PETICION DE CONVERSION	
Esta autoridad internacional de depósito ha recibido el microorganismo identificado en I, el <u>30 Junio 1989</u> (fecha del depósito inicial) y recibió una petición de conversión de depósito inicial en depósito conforme con el Tratado de Budapest el <u>30 Junio 1989</u> (fecha de recepción de la petición de conversión)	
V. AUTORIDAD INTERNACIONAL DE DEPOSITO	
Nombre: <u>Colección Española de Cultivos Tipo (CECT)</u> <u>UNIVERSIDAD DE VALENCIA--</u> <u>EDIFICIO DE INVESTIGACION</u> <u>Campus de Burjassot</u> Dirección: <u>46100 BURJASOT (Valencia)</u>	Firma(s) de la(s) persona(s) competente(s) para representar a la autoridad internacional de depósito o del (de los) empleado(s) autorizado(s) <u>Federico de Unzueta Ferraz</u> Fecha <u>8 Julio 1989</u>

En caso de aplicación de la Regla 6.4a), ésta será la fecha en la que haya sido adquirido el estatuto de autoridad internacional de depósito.

Formulario 9P/4 (página única)

16925/TPD